



Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
12.	07.3.08	<p>Present: Mr. A.K. Upadhyaya, Sr. Advocate with Mr. Ashim Chhetri, Ms. Rashmita Rai and Ms. Pollin Rai, Advocates for the Petitioner.</p> <p>Mr. B.K. Gupta, Advocate for the Respondents.</p> <p>...</p> <p>This order is being passed on the same lines and on the same reasoning as is given in earlier matter of New India Assurance Co. Ltd. Vs. Smt. Sabita Gurung & Another, C. Rev. P. No. 09/2006.</p> <p>In this case the victim was aged about 25 years when she died in December 2002 in a road accident which happened at Raiganj while the victim was travelling from Kolkata to Siliguri. The award was passed by the Gangtok Motor Accident Claims Tribunal on 22.06.2006 awarding an amount of Rs.11,49,500/- along with 10 % interest from the date of filing of the claim. She was not married at the time of her death.</p> <p>The victim is survived by her mother, her widowed sister and two sons of the widowed sister. The two sons are aged about 16 and 17 and the sister is aged below 40.</p>	



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About 4 years before her death, sometime in 1998 she got a job in Nepal and started working there. She was working at a private organization named, Shreepali International and according to the claimants her take home pay was a little under Rs.9,000/- per month.

The victim was of marriageable age; if the victim had lived on, it is likely that she would have got married and in that case the amount of subsistence, if any, which she sent home, would certainly have been substantially reduced, if not altogether stopped.

The Insurance Co. has already paid Rs.50,000/- and further a sum of Rs.6,00,000/- for the privilege of having their revisional application entertained very late and perhaps even against the law of the land.

The respondents took the stand that they are not minded to take another Rs.2,60,000/- in full and final settlement but that if the Court does not take away from them Rs.6,00,000/- which they have already got, they would like to go for execution of the whole award. As such, on that basis, they pray for dismissal of the revisional application.



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		<p>It is my fear that if I allow execution to continue the amount of money which has come will go unnecessarily for legal expenses, or at least a substantial portion of it, instead of helping out the four respondents with their lives, although in a meagre way.</p> <p>On that basis the submission of the respondents is rejected.</p> <p>It is ordered and directed that if the sum of Rs.2,60,000/- is paid by the applicant Insurance Company as in the case of the earlier payment, by four separate cheques in the name of the four separate respondents, for Rs.65,000/- each, then and in that event, such payment will be accepted under the order of this Court by the respondents in full and final satisfaction of their claims against the Insurance Company in respect of the death in question and the Claims Tribunal award will remain stayed permanently.</p> <p>In case of default in punctual payment as aforesaid by the Insurance Company the revisional application will automatically stand dismissed with costs, without any further order having to be passed by the Court, and in that</p>	



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		<p>the pendency of these proceedings will not in any manner stay any execution application which might be pending in the Tribunal or which might be made there hereafter. In any event, the Insurance Company is directed to pay Rs.1,50,000/-, without prejudice, to the Respondent No. 1 who is the mother of the deceased, by way of a cheque in her name; further, a sum Rs.1,50,000/- to Respondent No. 2 who is the sister of the deceased, similarly without prejudice, by way of a cheque issued in her name; a sum of Rs.1,50,000/- in the name of Respondent No. 3, a minor, mentioning therein Respondent No. 2 as his guardian; and a similar further cheque of Rs.1,50,000/- to the Respondent No. 4 in his name mentioning his minority in the cheque and paying it to him through his mother and guardian the Respondent No. 2.</p> <p>Unless these payments are made as aforesaid within a fortnight from the date hereof, this application will stand dismissed automatically in limine and without any fresh order having to be passed by the Court to that effect; such dismissal</p>	

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		<p data-bbox="284 372 1150 677">by way of default will also be a dismissal with costs; such costs to be assessed by Court on mentioning then; liberty for such mentioning is reserved.</p> <p data-bbox="922 652 1118 738"><i>A.N. Ray</i></p> <p data-bbox="917 745 1153 786">(A.N. Ray, C.J)</p>	<p data-bbox="1193 360 1576 689"><i>In terms of order dated 21-9-07, the compliance report in the form of Affidavit has been filed by the petitioner on 20-12-07.</i></p> <p data-bbox="1406 587 1565 684"><i>meas</i> <i>20/12/07</i></p>